

REMARKS

Claims 21-29 were pending in the application. By way of this amendment, claims 23 and 27 are canceled. Therefore, claims 21, 22, 24-26 and 28-29 are pending. The Office action rejected claims 21-29 under 35 U.S.C. § 103(a) over Applicants Admitted Prior Art (AAPA) in view of Galyas (WO 00/42789). The applicants respond as follows.

SECTION 103(A) REJECTIONS

Amended claim 21 further defines that the standard mode call comprises “the queue priority determined at least in part according to whether the communication signal is either a standard call mode or a bypass call mode wherein the standard call mode comprises communication signals that are decoded or encoded by a transcoder and the bypass call mode comprises communication signals that are neither encoded nor decoded by the transcoder.”

Galyas does not teach or suggest prioritization according to whether the communication signal is one of a standard call mode or a bypass call mode. Instead, Galyas prioritizes routing by determining if a communication message is either interactive speech or non-interactive speech/data. A priority is assigned as a function of speech activity, “The Tabis is a function of the speech activity (e.g., speech=1, non-speech=0),” page 7, lines 20-21. Delays are then categorized and applied to transmissions, “[t]he transmission delay for the non-interactive communications of TS0, however, significantly lengthens. The effect is thus to reduce the transmission delay for TS1 to TS7 and increase the delay for TS0,” page 9, lines 20-23. Galyas teaches this method of classification whether TFO is used or not. “When using TFO signaling, indicating the priority level of transmissions (e.g., identifying the non-interactive speech calls) may be accomplished by using the IS_System_Identification_Block,” page 13, lines 29-31.

“To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art,” MPEP 2143.03. There is a clear distinction between the speech/non-speech classification of Galyas and bypass mode (TFO)/standard mode (non-TFO) prioritization as claimed. Galyas prioritizes by data content, that is, the *type of message* contained in a packet. For example, Galyas routinely refers to differences between interactive and non-interactive speech and data (pg. 5, line 25;

pg. 7, lines 20-21; pg. 8 lines 25-29, pg. 10, line 31- pg. 11, line 1). Galyas does not teach or suggest analysis of the priority based on transport characteristics, that is mode classification. A device in accordance with the current disclosure prioritizes on a packet's mode *classification, not packet contents*.

Accordingly, Galyas does not teach or suggest all the elements of claim 21. The examiner admits the AAPA does not teach the element of queuing priority based on bypass call mode/standard call mode. Therefore, Galyas alone or in combination with the AAPA does not teach or suggest all the limitations of claim 21. If the examiner is taking Official Notice of the use of mode classification to prioritize packets, the applicant requests documentary evidence, as provided for in MPEP 2143.03(C).

The combination of AAPA and Galyas requires impermissible hindsight. The examiner makes the following statement on page 3, "It would have been obvious to one of ordinary skill in the art at the time of the invention to have used a prioritized queue in AAPA *in place of the FIFO queue*, and to have *further prioritized the levels* with respect to delay in the queue based on standard and bypass mode levels, in light of the teachings of Galyas, in order to give proper priority to normal mode calls such that their *delay is not excessive relative* to the bypass mode calls," (emphasis added). Support for the examiner's statement, particularly those highlighted areas, is not found in the teachings of either Galyas or AAPA. The applicants suggest that the examiner's statement relies on unacceptable hindsight. The only suggestion to assign a queue priority based on whether the communication is a standard call mode or a bypass call mode comes from within the application.

For at least the reasons that Galyas and AAPA do not teach all the limitations of claim 21 and that the combination of Galyas and AAPA requires impermissible hindsight, claim 21 is allowable. Therefore, previously presented dependent claims 22 and 24-25 are also allowable.

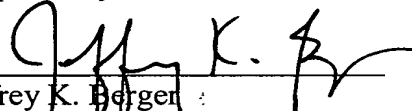
Similarly, amended independent claim 26 recites, in part, "assigning a lower queue value to the communication signal when the communication signal is a bypass mode

call than when the communication signal is a standard mode call; wherein the bypass mode call is a mobile-to-mobile call and the standard mode call is one of a mobile-to-landline and landline-to-mobile." For the same reasons stated above, Galyas in combination with AAPA does not teach or suggest this element of claim 26. Therefore claim 26 and its remaining dependent claims 28-29 are also allowable.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue. No fees are believed due, but should one be required, the Commissioner is directed to Deposit Account 13-2855.

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